OIPE
APR 28 2005
PATENT & TRADEMARK OFFICE
JC112

# TRANSMITTAL FORM

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| Application Serial Number | 10/817,455 |
| Filing Date | April 1, 2004 |
| First Named Inventor | Davis |
| Group Art Unit | 3736 |
| Examiner Name | Not yet assigned |
| Attorney Docket No. | DPL-048 |
| Patent No. | Not applicable |
| Issue Date | Not applicable |

**ENCLOSURES** *(check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Check Attached
  - ☐ Copy of Fee Transmittal Form
- ☐ Amendment/Response
  - ☐ Preliminary
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
  - ☐ Letter to Official Draftsperson including Drawings [Total Sheets _____]
- ☐ Petition for Extension of Time
- ☒ Information Disclosure Statement
  - ☒ Form PTO-1449
  - ☒ Copies of IDS Citations
- ☐ Certified Copy of Priority Document(s)
- ☐ Sequence Listing submission
  - ☐ Paper Copy/CD
  - ☐ Computer Readable Copy
  - ☐ Statement verifying identity of above
- ☐ Copy of Notice to File Missing Parts of Application
- ☐ Formal Drawing(s)
- ☐ Request For Continued Examination (RCE) Transmittal
- ☐ Power of Attorney (Revocation of Prior Powers)
- ☐ Terminal Disclaimer
- ☐ Executed Declaration and Power of Attorney for Utility or Design Patent Application
- ☐ Small Entity Statement
- ☐ CD(s) for large table or computer program
- ☐ Amendment After Allowance
- ☐ Request for Certificate of Correction
  - ☐ Certificate of Correction (in duplicate)
- ☒ Notice of Appeal to Board of Patent Appeals and Interferences
- ☐ Appeal Brief (in triplicate)
- ☐ Status Inquiry
- ☒ Return Receipt Postcard
- ☒ Certificate of First Class Mailing under 37 C.F.R. 1.8
- ☐ Certificate of Facsimile Transmission under 37 C.F.R. 1.8
- ☐ Additional Enclosure(s) *(please identify below)*

**CORRESPONDENCE ADDRESS**

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**SIGNATURE BLOCK**

Respectfully submitted,

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# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|---|---|---|---|
| APPLICANT(S): | Davis *et al.* | CONFIRMATION NO.: | 1601 |
| SERIAL NO.: | 10/817,455 | GROUP NO.: | 3736 |
| FILING DATE: | April 1, 2004 | EXAMINER: | Not yet assigned |
| TITLE: | NON-INVASIVE BREATH ANALYSIS USING FIELD ASYMMETRIC ION MOBILITY SPECTROMETRY | | |

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

## INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with the provisions of 37 C.F.R. 1.97 and 1.98, Applicants hereby make of record the patents and publications listed on the accompanying Form PTO-1449, and other information contained herein, for consideration by the Examiner in connection with the examination of the above-identified patent application. In accordance with 37 C.F.R. 1.98(a)(2), only copies of the foreign patent documents and non-patent publications are enclosed.

## REMARKS

In accordance with the provisions of 37 C.F.R. 1.97, this statement is being filed (CHECK ONE):

☒ (1) within three (3) months of the **filing date** of a national application other than a continued prosecution application under 37 C.F.R. 1.53(d), or within three (3) months of the **date of entry of the national stage** as set forth in 37 C.F.R. 1.491 in an international application, or before the mailing of the **first Office action** on the merits, or before the mailing of a **first Office action** after the filing of a request for continued examination under 37 C.F.R. 1.114; or

☐ (2) after the period defined in (1) but before the mailing date of a **final action** or a **notice of allowance** under 37 C.F.R. 1.311, and

☐ the requisite Statement is below, **OR**

☐ the requisite fee under 37 C.F.R. 1.17(p), namely **$180.00**, is included herein, or

☐ (3) after the mailing date of a **final action** or **notice of allowance** but before the payment of the **issue fee, AND**

☐ the requisite Statement is below, **AND**

☐ the requisite petition fee under 37 C.F.R. 1.17(p), namely **$180.00** is included herein.

It is respectfully requested that each of the patents and publications listed on the attached Form PTO-1449, and other information contained herein, be made of record in this application.

**STATEMENT**

As required under 37 C.F.R. 1.97(e), Applicant(s), through the undersigned, hereby state either that **[check the appropriate space only if either (2) or (3) is checked on the previous page and the Statement is required]**:

☐ 1. Each item of information contained in the Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application **not more than three months** prior to the filing of the Information Disclosure Statement; or

☐ 2. No item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this Statement after making reasonable inquiry, no item of information contained in the Information Disclosure Statement was known to **any individual** designated in 37 C.F.R. 1.56(c) **more than three months** prior to the filing of the Information Disclosure Statement.

Respectfully submitted,

Date: April 26, 2005
Reg. No. 50,773

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Fax No.: (617) 523-1231

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**FORM PTO - 1449**

**INFORMATION DISCLOSURE STATEMENT**

ATTORNEY DOCKET NO.: **DPL-048**
APPLICANT(S): **Davis *et al***
SERIAL NO.: **10/817,455**
FILING DATE: **April 1, 2004**
GROUP: **3736**

U.S. PATENT DOCUMENTS

| EXAM. INIT. | | DOCUMENT NUMBER | DATE | NAME | CLASS | SUB CLASS | FILING DATE IF APPROPRIATE |
|---|---|---|---|---|---|---|---|
| | A1 | 2002/0060290 A1 | 5/23/02 | Pham | 250 | 282 | 3/19/01 |
| | A2 | 2002/0138208 A1 | 9/26/02 | Paulse *et al.* | 702 | 22 | 11/15/01 |
| | A3 | 2002/0193950 A1 | 12/19/02 | Gavin *et al.* | 702 | 28 | 11/15/01 |
| | A4 | 2002/0195555 A1 | 12/26/02 | Weinberger *et al.* | 250 | 281 | 3/8/02 |
| | A5 | 2003/0047681 A1 | 3/13/03 | Guevremont *et al.* | 250 | 288 | 3/14/01 |
| | A6 | 2003/0085348 A1 | 5/8/03 | Megerle | 250 | 287 | 10/1/01 |
| | A7 | 2003/0132380 A1 | 7/17/03 | Miller *et al.* | 250 | 286 | 12/16/02 |
| | A8 | 2003/0146377 A1 | 8/7/03 | Miller *et al.* | 250 | 286 | 4/12/02 |
| | A9 | 2003/0208133 A1 | 11/6/03 | Mault | 600 | 532 | 6/6/01 |
| | A10 | 2003/0218130 A1 | 11/27/03 | Boschetti *et al.* | 250 | 288 | 4/14/03 |
| | A11 | 5,401,963 | 3/28/95 | Sittler | 250 | 288 | 11/1/93 |
| | A12 | 5,420,424 | 5/30/95 | Carnahan *et al.* | 250 | 287 | 4/29/94 |
| | A13 | 5,455,417 | 10/3/95 | Sacristan | 250 | 287 | 5/5/94 |
| | A14 | 5,492,867 | 2/20/96 | Kotvas *et al.* | 437 | 228 | 10/7/94 |
| | A15 | 5,763,876 | 6/9/98 | Pertinarides *et al.* | 250 | 288 | 4/4/96 |
| | A16 | 5,789,745 | 8/4/98 | Martin *et al.* | 250 | 286 | 10/28/97 |
| | A17 | 6,124,592 | 9/26/00 | Spangler | 250 | 287 | 3/18/98 |
| | A18 | 6,495,823 B1 | 12/17/02 | Miller *et al.* | 250 | 286 | 7/21/99 |
| | A19 | 6,512,224 B1 | 1/28/03 | Miller *et al.* | 250 | 286 | 11/12/99 |
| | A20 | 6,610,977 B2 | 8/26/03 | Megerle | 250 | 287 | 10/1/01 |
| | A21 | 6,627,881 BI | 9/30/03 | Bertrand *et al.* | 250 | 288 | 11/28/00 |
| | A22 | 6,639,212 B1 | 10/28/03 | Guevremont *et al.* | 250 | 282 | 8/5/99 |
| | A23 | 6,653,627 B2 | 11/25/03 | Guevremont *et al.* | 250 | 288 | 3/14/01 |

| EXAMINER | DATE CONSIDERED |
|---|---|
| | |

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| FORM PTO - 1449<br>INFORMATION DISCLOSURE STATEMENT | ATTORNEY DOCKET NO.: **DPL-048**<br>APPLICANT(S): **Davis *et al***<br>SERIAL NO.: **10/817,455**<br>FILING DATE: **April 1, 2004**<br>GROUP: **3736** |
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U.S. PATENT DOCUMENTS

| EXAM. INIT. | | DOCUMENT NUMBER | DATE | NAME | CLASS | SUB CLASS | FILING DATE IF APPROPRIATE |
|---|---|---|---|---|---|---|---|
| | A24 | 6,675,104 B2 | 01/06/04 | Paulse *et al.* | 702 | 22 | 11/15/01 |
| | A25 | 6,690,004 B2 | 2/10/04 | Miller *et al.* | 250 | 286 | 4/12/02 |

FOREIGN PATENT DOCUMENTS

| EXAM. INIT. | | DOCUMENT NUMBER | DATE | COUNTRY CODE | CLASS | SUB CLASS | FILING DATE | ABSTRACT ONLY | ENGLISH LANG ( /N) |
|---|---|---|---|---|---|---|---|---|---|
| | B1 | 101 14 141 A1 | 09/19/02 | DE | | | 03/16/01 | No | No |
| | B2 | 0 347 101 A2 | 06/08/89 | EP | | | 12/20/89 | No | Yes |
| | | | | | | | | | |
| | | | | | | | | | |

OTHER ART, JOURNAL ARTICLES, ETC.

| EXAM. INIT. | OTHER DOCUMENTS: (Including Author, Title, Date, Relevant Pages, Place of Publication) | |
|---|---|---|
| | C 1 | International Search Report for International Application Serial No. PCT/US2004/010288, mailing date of August 20, 2004. |
| | C2 | Smith, *et al.* , "The Novel Selected-ion Flow Tube Approach to Trace Gas Analysis of Air and Breath," *Rapid Communications in Mass Spectrometry, Vol. 10,* pp. 1183-1198 (1996). |
| | C3 | Manolis, "The Diagnostic Potential of Breath Analysis," *Clinical Chemistry,* Vol. 29, No. 1, pp. 5-15 (1983). |
| | | |

| EXAMINER | DATE CONSIDERED |
|---|---|

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**PATENT**
Attorney Docket No. DPL-048

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICANT(S): | Davis *et al.* | | |
| SERIAL NO.: | 10/817,455 | GROUP NO.: | 1601 |
| FILING DATE: | April 1, 2004 | EXAMINER: | Not yet assigned |
| TITLE: | NON-INVASIVE BREATH ANALYSIS USING FIELD ASYMMETRIC ION MOBILITY SPECTROMETRY | | |

***CERTIFICATE OF FIRST CLASS MAILING UNDER 37 C.F.R. 1.8***

I hereby certify that this correspondence, and any document(s) referred to as enclosed herein, is/are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 26th day of April, 2005.

Carrah M. Malone

Carrah M. Malone

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith are:

1. Transmittal Form (1 page);
2. Information Dislcosure Statement (2 pages);
3. Form PTO-1449 (2 pages);
4. Copies of cited references B1-B2 and C1-C3;
5. Return receipt postcard

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